

**REMARKS**

Applicant respectfully requests reconsideration of the instant application in the view of the foregoing amendments and the following remarks. Claims 1 and 4-21 are currently pending in the instant application. Claims 1, 16 and 22 are independent. By this Amendment, Applicant has amended claims 1, 4, 7-10, 16 and 20 and canceled claims 3 and 22. Applicant submits that support for the amendments may be found throughout the specification and originally-filed claims, and that no new matter has been added.

**Examiner Interview**

Two telephone interviews regarding the pending rejection were held between Applicant's counsel and the Examiner on January 11, 2006 and January 31, 2006. Applicant's counsel would like to thank the Examiner for the courtesy of the interview. In the course of the two interviews the pending claims and applied references were discussed. In particular, language was discussed to clarify the distinctions between the cited art and the pending claims. Applicant's counsel and the Examiner agreed to language that would overcome the prior art. The language discussed is provided in amended Claim 1.

**Rejections under 35 U.S.C. § 103**

Claims 1, 3-7, 9-11, 14-18, 20 and 22 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Madsen (US Patent No. 1,179,384) in view of U.S. Conkey (US Patent No. 1,134,994). Claims 12 and 13 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Madsen (US Patent No. 1,179,384) in view of

U.S. Conkey (US Patent No. 1,134,994) further in view of Fox (Published US Application No. 2004/0139586). Claims 8, 19, and 21 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Madsen (US Patent No. 1,179,384) in view of U.S. Conkey (US Patent No. 1,134,994) further in view of Katz (US Patent No. 5,410,784).

Claim 1 as amended requires a locked position that is not disclosed in the cited references or their combination. Claim 1 requires that in “the locked position the distal end of the swivel is inside the opening, and a gap exists in the portion of the opening not filled by the swivel, wherein a portion of the jewelry item attached to the toggle passes through the gap and between the distal portion of the swivel and the distal portion of the loop.” In contrast, the locked position Madsen does not allow a portion of the jewelry item to pass through a gap between the distal end of the circular disc 16 and the ring portion 13. Instead, in the locked position of Madsen the toggle bar 12 is clamped between the circular disc 16 and the ring portion 13, such that the necklace 10 does not pass through a gap between the circular disc and ring portion. Similarly, the locked position in Conkey also does not provide a gap between the distal end of a swivel and a loop. In Conkey the chain 4 passes through a slot 5 within arm 7. Thus, the chain 4 is not between the distal end of a swivel and the distal portion of a loop. Accordingly, neither Madsen, Conkey or their combination discloses the limitations of claim 1.

Independent claim 16 as amended requires “a closed position in which the distal end of the protruding member is inside the opening to reduce the size of the opening to prevent the male toggle member from passing through the opening and a

portion of the first end of the jewelry item passes through the opening between the distal end of the protruding member and the distal portion of the female toggle member.” In contrast, the locked position Madsen does not allow a portion of the first end of the jewelry item to pass through an opening between the distal end of the circular disc 16 and the ring portion 13. Instead, in Madsen the toggle bar 12 is clamped between the circular disc 16 and the ring portion 13 in the locked position and the necklace 10 does not pass through a gap between the circular disc and ring portion. Similarly, the locked position in Conkey also does not provide an opening between the distal end of a protruding member and a loop. In Conkey the chain 4 passes through a slot 5 within arm 7. Accordingly, the chain 4 is within the extent of arm and not between it and the distal portion of a female toggle member. Thus, neither Madsen, Conkey nor their combination discloses the limitations of claim 16.

Independent claim 20 as amended requires “pivoting the swivel to a closed position in which an end of the swivel distal to the opposing end of the item of jewelry is within the opening and a portion of the item of jewelry extends through the opening between the distal end of the swivel and the distal portion of the female toggle member, wherein the swivel reduces the opening to a second size to prevent the male toggle member from passing through the opening.” In contrast, the clasp disclosed in Madsen cannot pivot to a closed position in which a portion of the first end of the jewelry item to passes through an opening between the distal end of the circular disc 16 and the ring portion 13. Instead, in Madsen when the toggle bar 12 it is clamped between the circular disc 16 and the ring portion 13 and the necklace 10 does not pass through a gap between

the circular disc and ring portion. Similarly, Conkey pivots into a closed position that does not provide an opening between the distal end of a protruding member and a loop. In Conkey the chain 4 passes through a slot 5 within arm 7. Accordingly, the chain 4 is within the extent of the arm and not between it and the distal portion of a female toggle member. Thus, neither Madsen, Conkey nor their combination discloses the limitations of claim 20.

For the reasons stated above claims 1, 16 and 20 recite limitations not disclosed by the prior art. The remaining pending rejected claims 4-15, 17-19 and 21 all depend directly or indirectly from one claim 1, 16 or 20 discussed above. Accordingly, to the extent that the independent claims recite limitations not disclosed by the Madsen and Conkey, the rejected dependent claims also recite those limitations and are patentable for at least the same reasons stated above. The additional combination of Fox and Katz also does not teach the limitations disclosed in the claims.

### **Conclusion**

For the reasons set forth above, Applicant respectfully requests the rejections of claims 1 and 4-21 be withdrawn and submits that each of the pending claims are in condition for allowance.

**AUTHORIZATION**

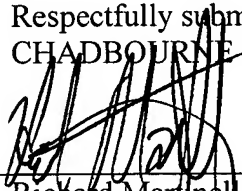
The Commissioner is hereby authorized to charge any additional fees which may be required for consideration of this Amendment to Deposit Account No. 03-1240, Order No. 17181.003.

In the event that an additional extension of time is required, or which may be required in addition to that requested in a petition for an extension of time, the Commissioner is requested to grant a petition for that extension of time which is required to make this response timely and is hereby authorized to charge any fee for such an extension of time or credit any overpayment for an extension of time to Deposit Account No. 03-1240, Order No. 17181.003.

Respectfully submitted,  
CHADBOURNE & PARKE, L.L.P.

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By: \_\_\_\_\_

  
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